

Crl.O.P.No.3457 of 2021
in Crl.A.Sr.No.6815 of 2021
P.VELMURUGAN, J.

The petitioner herein filed a complaint against the respondent/accused under Section 138 of Negotiable Instruments Act, 1881 before the learned Metropolitan Magistrate, Fast Track Court No.I, Egmore, Allikulam, Chennai -3 and the same was taken on file in C.C.No.6531 of 2016. After due enquiry, the learned Magistrate dismissed the complaint. Challenging the same, the petitioner is before this Court with the above appeal. Since the appeal is against the acquittal of the respondent, the petitioner filed the present petition to grant leave to file appeal.

2.The learned counsel for the petitioner would submit that the respondent/accused admitted the execution of cheque and also borrowal of the loan amount. However, the trial Court failed to appreciate the entire evidence and dismissed the complaint only on assumption. Therefore, the petitioner has a fair chance to succeed in the appeal and hence, leave may be granted.

3.The learned counsel for the respondent would submit that the

respondent only borrowed a sum of Rs.5,00,000/- in the year 2013, however, the petitioner filed a complaint for a sum of Rs.45,00,000/- and there is no legally enforceable debt. The trial Court has rightly dismissed the complaint and there is no merit in the appeal.

4.Heard both sides and perused the materials available on record.

5. On a careful perusal of the records, it reveals that the respondent has admitted the execution of cheque, however, the dispute is only regarding the quantum of amount and that can be decided only at the time of trial.

6. Under these circumstances, this Court finds that there are arguable grounds for filing the appeal. Accordingly, leave is granted.

7.Registry is directed to number the Criminal Appeal, if it is otherwise in order.

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